

**United States Court of Appeals  
For the First Circuit**

No. 20-1061

JONATHAN MULLANE,

Plaintiff - Appellant,

V.

BREAKING MEDIA, INC.; ELIE MYSTAL,

Defendants - Appellees,

UNITED STATES; FEDERICO A. MORENO; ALISON W. LEHR,

Defendants.

No. 20-1062

JONATHAN MULLANE,

Plaintiff - Appellant,

V.

UNITED STATES; FEDERICO A. MORENO; BREAKING MEDIA, INC.; ELIE MYSTAL;  
ALISON W. LEHR,

Defendants - Appellees.

Nos. 20-1080  
20-1390

JONATHAN MULLANE,

Plaintiff - Appellant,

V.

UNITED STATES; FEDERICO A. MORENO; ALISON W. LEHR; BREAKING MEDIA,  
INC.; ELIE MYSTAL,

Defendants - Appellees,  
  
E. PETER MULLANE,  
  
Interested Party - Appellant.

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Before

Howard, Chief Judge,  
Thompson and Barron, Circuit Judges.

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### JUDGMENT

Entered: February 26, 2021

Plaintiff-Appellant Jonathan Mullane appeals from the district court's dismissal of his defamation action following the district court's grant of Defendant-Appellees Breaking Media, Inc. and Elie Mystal's Fed. R. Civ. P. 12(b)(6) motion to dismiss. Also challenged is the district court's denial of E. Peter Mullane's motion to intervene. Briefing is now complete.

As to the motion to dismiss, after de novo review of the record and consideration of the arguments of the parties, we conclude that the district court did not err when it granted the Rule 12(b)(6) motion to dismiss based on the application of the Massachusetts fair report privilege and First Amendment principles. See Artuso v. Vertex Pharms., Inc., 637 F.3d 1, 5 (1st Cir. 2011) (standard of review); Yohe v. Nugent, 321 F.3d 35, 42–43 (1st Cir. 2003) (application of fair report privilege); accord Howell v. Enterprise Publ. Co., LLC, 455 Mass. 641, 654 (2010); Sindi v. El-Moslimany, 896 F.3d 1, 14 (1st Cir. 2018) (First Amendment principles); Levinsky's, Inc. v. Wal-Mart Stores, Inc., 127 F.3d 122, 129 (1st Cir. 1997) (same). To the extent Mullane intended also to challenge the district court's personal-jurisdiction-based dismissal of the claims asserted against other defendants, Mullane has failed with his brief to develop any challenge to that ruling. See United States v. Zannino, 895 F.2d 1, 17 (1st Cir. 1990) (insufficiently developed claims are waived).

As to the motion to intervene, we conclude that the district court did not abuse its discretion or otherwise err when it denied intervention. See Ungar v. Arafat, 634 F.3d 46, 50-51 (1st Cir. 2011) (factors for consideration and standard of review). The judgment of the district court is **AFFIRMED**. See Local Rule 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

cc:

Jonathan Mullane

Michelle L. Dineen Jerrett

Donald Campbell Lockhart

Jason C. Weida

Christopher Morgan

John Mark Dickison

Joshua M. D. Segal

E. Peter Mullane